



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

Docket No. USCG-2014-1029

RIN 1625-AA09

Drawbridge Operation Regulation; Hoquiam River, Hoquiam, WA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is temporarily modifying the operating schedule that governs the Simpson Avenue Bridge on the Hoquiam River, mile 0.5, at Hoquiam, Washington. This temporary final rule is necessary to accommodate Washington State Department of Transportation's (WSDOT) extensive maintenance and restoration efforts on this bridge. WSDOT will only open one leaf of the double leaf bascule bridge when at least two hours of notice is given.

DATES: This temporary final rule is effective from 7 a.m. on April 1, 2015 to 11 p.m. on November 30, 2015.

ADDRESSES: Documents mentioned in this preamble are part of docket USCG-2014-1029. To view documents mentioned in

this preamble as being available in the docket, go to <http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is 202-366-9329.

See the "Public Participation and Request for Comments" portion of the SUPPLEMENTARY INFORMATION section below for instructions on submitting comments. To avoid duplication, please use only one of three methods.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule change, call or e-mail Steven M.

Fischer, Bridge Administrator, Thirteenth Coast Guard District Bridge Program Office, telephone 206-220-7282; e-mail d13-pf-d13bridges@uscg.mil. If you have questions on viewing or submitting material to the docket, call Cheryl Collins, Program Manager, Docket Operations, telephone 202-366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FR	<u>Federal Register</u>
NPRM	Notice of Proposed Rulemaking
§	Section Symbol
U.S.C.	United States Code

A. Regulatory History and Information

On January 2, 2015, the Coast Guard published a Notice of Proposed Rulemaking (NPRM) entitled "Drawbridge Operation Regulation; Hoquiam River, Hoquiam, WA" in the Federal Register (80 FR 21). We received no comments on the proposed rule. No public meeting was requested, and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective in less than 30 days after publication in the Federal Register because to wait otherwise would be impracticable because WSDOT's work will commence on April 1, 2015 and, as noted below, there is no indication that the change will have a significant impact on any waterways users.

B. Basis and Purpose

WSDOT, who owns and operates the Simpson Avenue Bridge on the Hoquiam River in Hoquiam, Washington, has requested

a change to the bridge's existing operating regulations in order to facilitate the maintenance and restoration of the bridge. The restoration project will entail painting, rust removal, and steel repairs which require a full containment system to keep paint and debris out of the Hoquiam River.

In an effort to accommodate both the needs of the waterway and highway users, WSDOT has requested a rule change in order to eliminate the need to repeatedly uninstall and reinstall the containment system. As such, the Coast Guard will change the bridge's current operating regulation from April 1, 2015 to November 30, 2015. During that time the drawbridge would be maintained in the closed position except that, upon at least two hours advance notice, one leaf of the double leaf bascule bridge would be opened.

Vessels that are able to transit under the bridge without an opening will be free to do so. However, the existing vertical navigation clearance of the closed draw span leaf (one half of the double leaf draw bridge), will be reduced from approximately 35 feet to approximately 25 feet at mean high tide and the horizontal navigation clearance will be reduced from 125 feet to approximately 52 feet. Navigation clearance reduction is due to the installation of a required containment system.

Vessel traffic along this part of the Hoquiam River consists of vessels ranging from commercial tug and barge to small pleasure craft. WSDOT has examined bridge opening logs and contacted all waterway users that have requested bridge openings throughout the last year. The input WSDOT received from waterway users indicated that the temporary rule change will have no impact on the known users.

C. Discussion of Final Rule

The Coast Guard will revise the operating regulations at 33 CFR 117.1047. The regulation currently states that the Simpson Avenue Bridge shall open on signal if at least one hour notice is given. The Coast Guard will change the regulation such that from 7 a.m. on April 1, 2015 to 6 p.m. on November 30, 2015, the draw of the Simpson Avenue Bridge, on the Hoquiam River at mile 0.5, at Hoquiam, Washington, shall open half of the bascule (single leaf) when at least two hours of advance notice is given. No alternate routes are available for this waterway. Vessels that can transit under the bridge without an opening may do so at any time, although the existing vertical navigation clearance of the closed draw span (one half of the double leaf draw bridge), will be reduced from approximately 35 feet to approximately 25 feet at mean high tide and the horizontal navigation clearance will be reduced from 125

feet to approximately 52 feet. Navigation clearance reduction is due to the installation of a required containment system.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a "significant regulatory action" under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. The Coast Guard has made this finding based on the fact that all requested bridge openings will be granted with advance notification and vessels that can safely transit under the bridge may do so at any time.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider

the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities.

This rule would affect the following entities, some of which might be small entities: The owners or operators of vessels needing to transit the bridge at any time of day. This rulemaking will not have a significant economic impact on a substantial number of small entities for the following reasons: The bridge will still be able to open upon advance notification.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR

FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule, after receiving no comments, under that Order and have determined that it does

not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "For Further Information Contact" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule would not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and would not create an environmental risk to health or risk to safety that might disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule simply promulgates the operating regulations or procedures for drawbridges. This rule is categorically excluded, under figure 2-1, paragraph (32)(e), of the Instruction.

Under figure 2-1, paragraph (32)(e), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

§ 117.1047 [Amended]

2. In § 117.1047, effective 7 a.m. on April 1, 2015 until 6 p.m. on November 30, 2015, suspend paragraph(c) and add paragraph (e) to read as follows:

§ 117.T1047 Hoquiam River.

* * * * *

(e) Half of the draw (single leaf) of the Simpson Avenue Bridge, mile 0.5, at Hoquiam, WA, shall open on signal if at least a two hour notice is given by telephone or VHF radio to the Washington State Department of Transportation. The opening signal is two prolonged blasts followed by one short blast.

Dated: March 18, 2015

R. T. GROMLICH
Rear Admiral, U. S. Coast Guard
Commander, Thirteenth Coast Guard District

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